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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,346	02/24/2004	Gopinath Ganapathy	35417-8003.US00	3841
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PERKINS COIE LLP P.O. BOX 2168 MENLO PARK, CA 94026			EXAMINER ROBERTSON, DAVID	
			ART UNIT 3623	PAPER NUMBER
			MAIL DATE 08/16/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/786,346	<b>Applicant(s)</b> GANAPATHY ET AL.	
	<b>Examiner</b> Dave Robertson	<b>Art Unit</b> 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 August 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 10-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>none</u> .                                                     | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This is a Non-final office action examining claims 1-9 after the successful filing of a "Petition to Revive after Unintentional Abandonment", granted 6/18/2007.

### ***Election/Restrictions***

2. Claims 10-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 8/2/2007.

### ***Response to Amendment***

3. The amendment filed 2/21/2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is found in the amended claims as follows:

Applicant amends claims 1, 10 and 28 to recite creating (or updating) a schedule according to a current state (claim 1), an occurrence of an event (claim 10), or to comparing of actual cost to the percentage of completion of a project (claim 28); however, none of the original disclosure, the priority provisional application, or the original claims supports a claim to creating or updating a schedule during project

monitoring (after initial Project Planning) according to a current state, an event, or actual costs in comparison to completion percentage.

A detailed review of the provisional and non-provisional disclosures including claims as originally presented, shows support for schedule monitoring and warning of failures to meet schedules, and highlighting discrepancies between actual and expected status and cost; however, no creating or updating of a project schedule based on current state, event, or actual cost is disclosed.

Applicant is required to cancel the new matter in the reply to this Office Action.

#### ***Response to Arguments***

4. Applicant's arguments filed 2/21/2007 with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had

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possession of the claimed invention. The material which is not supported by the original disclosure is found in the amended claims as follows:

Applicant amends claim 1 to recite *producing an updated schedule for designing the end product according to the current state*; however, none of the original disclosure, the priority provisional application, or the original claims supports a claim to creating or updating a schedule during project monitoring (after initial Project Planning) according to a current state, an event, or actual costs in comparison to completion percentage.

A detailed review of the provisional and non-provisional disclosures including claims as originally presented, shows support for schedule monitoring and warning of failures to meet schedules, and highlighting discrepancies between actual and expected status and cost; however, no creating or updating of a project schedule based on current state, event, or actual cost is disclosed.

Claims 2-9 are dependent on claim 1 and similarly rejected for the reasons given above.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

8. Claims 1-3 and 7-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Swanke et al (US Pat. 7,212,987).

Swanke discloses automated methods for coordinating design project tasks and resources, distributed human resources and design software tools, and automatically monitoring and notifying managers of the project plan task and project completion status.

Specifically, with respect to the claims of the present invention:

Claim 1

Swanke teaches a computer network system for facilitating the design of an end product (Figures 1, 2 and 5; Abstract and column 2 from line 60) including a first software tool including one or more designs for the end product, the designs encoded in one or more electronic formats (see Figure 1 and column 3 from line 5, describing design software applications including timing control, test generation, and simulation linking software to data, the design database Figure 2—125, an electronic format); a second software tool including enterprise resource planning software, including one or more fields indicating actual costs incurred in product design (see Figure 2; column 1 from line 63, an aspect of “coordinating resources to complete a design project”; and column 3 from line 44, planning and polling software tracking time of workers and expense of projects, all functions characteristics of ERP); a third software tool supporting project planning for the end product, wherein the tool models a schedule (see Figures 2 and column 1 from line 60: project planning includes defining dates for interdependent tasks and monitoring a project plan for missed dates); changing the

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schedule (column 2 at line 33) in response to real-time monitoring); and a monitoring engine (Figure 2 and column 2 from line 60: the "Pervasive Proactive Project Planner").

### Claims 2 and 3

Swanke teaches design software tools including standard computer-aided design tools (column 3 from line 5: "Modern conventional (i.e. standard) software applications...such as timing control, test generation, and simulation). Timing control" is a hardware design tool for an end product, which includes computer hardware. Swanke explicitly teaches design methodologies including custom or application specific integrated circuits (column 1 line 39).

### Claims 7-9

Swanke teaches monitoring progress of the design of an end product towards completion (see column 2 from line 7) including using a metric (time and expense) comparing actual progress against planned progress (column 3 from line 26: "Daily status report" from monitoring current status to expected completion date).

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swanke et al (US Pat. 7,212,987) in view of Ernst (US Pat. 6,591,278; formerly cited).

Claims 4-6

Swanke teaches design software tools including standard computer-aided design tools (column 3 from line 5: "Modern conventional (i.e. standard) software applications...such as timing control, test generation, and simulation); however, Swanke does not expressly teach that electronic design formats include a *hardware design language (claim 4)*; or that the hardware design language includes VERILOG (claim 5); or that the end product is a software product (claim 6).

It is old and well known that hardware design languages enable designers using automated design tools to create, manipulate, store, and share product designs as an aid to efficiently generating complex product designs encoded in electronic formats. For example, Perrin ("Web-based Circuit Engineering", 1999, an article provided in the citations of 8/12/2006) describes several such tools for electronic product design. Hyde ("CSCI 320 Computer Architecture Handbook on VERILOG HDL," 1997, also previously cited) describes the hardware description language VERILOG, an electronic design format for VLSI chip design (see Hyde, page 4); Hyde describes an implementation of VERILOG, a *standard hardware design language implemented as an electronic format* for the programmatic description of a VLSI design to be executed and tested by a simulation design tool.

Ernst expressly motivates the use of automated design tools for managing the increasing complexity of end product technologies including hardware, software, and mechanical products, using the design software tools to replace purely manual (see



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Ernst column 1 from line 12: teaching the use of design tools for increasingly complex products and development team structure).

Therefore, it would have been obvious to one of ordinary skill at the time of invention to employ in Swanke any one or several of the many automated tools for the design of hardware or software end products, and in the process employ a hardware design language, such as VERILOG, as together these would have provided the designer an aid to efficiently creating, manipulating, storing, and sharing complex product designs, using automated means to better manage both the complexity of the product and the complexity of increasingly distributed, concurrent, and/or outsourced product design teams.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Charisius\_et al (US 6,968,343) discloses automated methods for managing an electronic design project on a distributed network by a distributed engineering team, including the design and development of software end products.

Oliver (US 5,907,490) discloses automated methods for project management and completion assessment using earned-value metrics to compare resources expended to actual project or program developments and milestones.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Robertson whose telephone number is 571-272-8220. The examiner can normally be reached on 8:15am to 5:15pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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*8/9/07*

  
TARIQ R. HAFIZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600